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6 Attorneys for Plaintiff Vapur, Inc.

7  
 8 UNITED STATES DISTRICT COURT  
 9 CENTRAL DISTRICT OF CALIFORNIA

10 VAPUR, INC., a California corporation,

Case No. 2:11-CV-04568 ODW-JC

11 Plaintiff,

**[PROPOSED] PERMANENT  
 INJUNCTION AND FINAL  
 JUDGMENT**

12 v.

13 RESHINE PROMOTION INC, a business  
 14 entity,

Date: NA  
 Time: NA

15 Defendant.

Judge: Hon. Otis D. Wright II

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17 This matter comes before the Court on Plaintiff Vapur, Inc.'s ("Vapur")  
 18 Application for Entry of Default Judgment. On September 6, 2011, Vapur filed the  
 19 above-referenced Application, through which Vapur seeks entry of judgment on the  
 20 following causes of action alleged in its Complaint: Trademark Counterfeiting under  
 21 15 U.S.C. § 1114(l); Trademark Infringement under 15 U.S.C. § 1114(l); Trade Dress  
 22 Infringement under 15 U.S.C. § 1125(a); Unfair Competition and False Designation of  
 23 Origin under 15 U.S.C. § 1125(a); Design Patent Infringement under 35 U.S.C. § 271;  
 24 and Unfair, Unlawful, and Fraudulent Business Practices under Cal. Bus. & Prof.  
 25 Code § 17200. These claims are based on Defendant Reshine Promotion Inc's  
 26 ("Reshine") marketing, importation, distribution, offer for sale, and sale of counterfeit  
 27 versions of Vapur's highly distinctive and successful plastic water bottle ("Vapur  
 28 Bottle").

1 On August 2, 2011, the Clerk entered Default Judgment against Reshine on  
2 Vapur's Complaint. Accordingly, all of the factual allegations in Vapur's Complaint  
3 are deemed admitted.

4  
5 Vapur has presented competent evidence to support its claims for injunctive  
6 relief and, good cause having been shown, the Court hereby GRANTS Vapur's  
7 Application for Entry of Default Judgment and ORDERS the following:

8  
9 1. Vapur owns the federal trademark registrations for its VAPUR®  
10 and THE ANTI-BOTTLE® trademark, U.S. Trademark Registration Nos. 3,766,784  
11 and 3,893,851 ("Vapur Trademarks");

12  
13 2. Vapur owns the trade dress rights to the inherently distinctive and  
14 non-functional aspects of the Vapur Bottle and its packaging as identified in  
15 Paragraphs 11-12 of the Complaint and Exhibit C thereto ("Vapur Trade Dress");

16  
17 3. Vapur owns United States Design Patent Nos. D619,906 S and  
18 D622,612 S ("Vapur Design Patents")

19  
20 4. Reshine's counterfeit version of the bottle ("Counterfeit Bottle")  
21 infringes the Vapur Trademarks, Vapur Design Patents, and Vapur Trade Dress.

22  
23 5. Reshine, and its officers, directors, principals, agents, servants,  
24 employees, successors and assigns, and all other persons in active concert or privity or  
25 in participation with Reshine, jointly and severally, shall be permanently restrained  
26 and enjoined from:

27  
28 a. Imitating, copying or making use of Vapur's registered

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1 VAPUR® Trademarks or any confusingly similar variation thereof;

2  
3 b. Imitating, copying or making use of Vapur's registered  
4 ANTI-BOTTLE® Mark or any confusingly similar variation thereof;

5  
6 c. Manufacturing, producing, distributing, importing,  
7 marketing, selling, offering for sale, or displaying any products or other items bearing  
8 any copy or colorable imitation of any of Vapur's trademarks, including the Vapur  
9 Trademarks;

10  
11 d. Using any copy or colorable imitation of the Vapur Trade  
12 Dress in connection with the promotion, advertisement, display, sale, offering for sale,  
13 manufacture, printing, importation, production, circulation or distribution of any  
14 products or services, including the Counterfeit Bottles;

15  
16 e. Engaging in any other activity constituting unfair  
17 competition with Vapur, or constituting an infringement of the Vapur Trademarks,  
18 Trade Dress or Design Patents, or constituting any damage to Vapur's name,  
19 trademarks, reputation, or goodwill

20  
21 f. Making, using, offering for sale, selling and/or importing  
22 infringing Counterfeit Bottles, and from otherwise infringing, contributing to the  
23 infringement of, or actively inducing infringement of, the '906 Patent and/or the '612  
24 Patents;

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1 g. Continuing to market, offer, sell, transfer, advertise,  
2 promote, develop or manufacture any bottles, including the Counterfeit Bottle, that  
3 infringe Vapur's intellectual property rights, or to participate or assist in any such  
4 activity;

5  
6 h. Moving, discarding, destroying, selling, transferring, or  
7 otherwise disposing of any Counterfeit Bottles or any other products or materials  
8 bearing the Vapur Trademarks or Trade Dress, or any other products or materials that  
9 infringe or contribute to the infringement of Vapur's intellectual property rights,  
10 including its design patent, trademark and trade dress rights; and

11  
12 i. Moving, discarding, destroying, selling, transferring, or  
13 otherwise disposing of any business records, labels, wrappers, stickers, signs, sales  
14 materials, advertising materials, or promotional materials relating to the Counterfeit  
15 Bottles or any other products or materials bearing the Vapur Trademarks, or any  
16 other products that infringe or contribute to the infringement of Vapur's intellectual  
17 property rights, including its design patent, trademark and trade dress rights.

18  
19 6. Violation of this permanent injunction shall subject Reshine to contempt  
20 and any remedy available at law or equity, including, but not limited to, injunctive  
21 relief, monetary damages and the award of reasonable attorneys' fees and costs in  
22 enforcing this injunction.  
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1           7. This Court shall retain jurisdiction of this matter in connection with any  
2 possible violations of this Permanent Injunction and Final Judgment.

3  
4           IT IS SO ORDERED

5  
6           DATE: 10/5/11



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8           OTIS D. WRIGHT, II  
9           U.S. District Court Judge

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